

Message Text

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ACTION EB-07

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E.O. 11652: N/A

TAGS: EINV, EFIS, PE

SUBJECT: FOREIGN INVESTMENT IN FISHING IN PERU

REF: STATE 265945, LIMA 6778, LIMA 1568

1. FOREIGN PARTICIPATION IN THE PERUVIAN FISHING INDUSTRY IS GOVERNED BY DECREE LAW 18810 OF MARCH 25, 1971, AND SUBSEQUENT IMPLEMENTING REGULATIONS. ALL FOREIGN FISHING ENTITIES IN PERU, UNDER THIS LAW, ARE SUBJECT TO THE CAPITAL DIVESTMENT REQUIREMENTS SET FORTH IN DECISIONS 24 AND 37 OF THE CARTAGENA AGREEMENT. THESE DECISIONS DISTINGUISH THREE TYPES OF ENTITIES ACCORDING TO THEIR CAPITAL PARTICIPATION:

TYPE OF ENTERPRISE PERCENT OF FOREIGN PARTICIPATION

NATIONAL	LESS THAN 20 PERCENT
MIXED	BETWEEN 20 AND 49 PERCENT OR MORE THAN 49 PERCENT, BUT AT LEAST 30 PERCENT STATE OWNERSHIP AND MANAGEMENT CONTROL
FOREIGN	GREATER THAN 49 PERCENT

WITHIN THREE YEARS FROM JULY 1, 1971, FOREIGN FISHING COMPANIES MUST SIGN A CONTRACT WITH THE PERUVIAN GOVERN-
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MENT TO ATTAIN AT LEAST 15 PERCENT NATIONAL OWNERSHIP BY JULY 1,

1974; 45 PERCENT OWNERSHIP BY JULY 1, 1981; AND 51 PERCENT OR GREATER BY JULY 1, 1986. AMONG OTHER PROVISIONS, THESE TRANSFORMATION AGREEMENTS MUST CONTAIN RULES TO ASSURE PROGRESSIVE PARTICIPATION BY NATIONAL INVESTORS IN THE TECHNICAL, FINANCIAL, AND ADMINISTRATION ASPECTS OF THE ENTERPRISE. FURTHER, THE METHOD OF VALUATION OF SHARES TO BE SOLD TO NATIONAL INVESTORS MUST BE CONTAINED IN THE CONTRACT.

2. AT PRESENT THERE ARE NO MAJORITY-HELD FOREIGN FISHING COMPANIES IN PERU. PRINCIPAL U.S. INVESTMENT CONSISTS OF A PERUVIAN GOVERNMENT/STAR-KIST JOINT VENTURE, COPEDES (51 PERCENT PERUVIAN, 49 PERCENT STAR-KIST), FORMED LAST AUGUST (SEE LIMA 6778) USING PREVIOUS FOOD FISH ASSETS OF A STAR-KIST SUBSIDIARY AS BASIS FOR STAR-KIST PARTICIPATION. FURTHER, PERU HAS A TECHNICAL COOPERATION AGREEMENT WITH VAN CAMP, UNDER WHICH THE COMPANY HAS ARRANGED FOR LOAN AND TRANSFER, RESPECTIVELY, OF TWO BOATS IN RETURN FOR CERTAIN OPTION RIGHTS ON PERUVIAN TUNA CATCHES. (SEE LIMA 1568 FOR MORE DETAILED BACKGROUND ON THESE ARRANGMENTS.) POLES, CUBANS, AND JAPANESE ARE ALSO OPERATING UNDER ASSOCIATION-TYPE ARRANGEMENTS (SEE LIMA 6778).

3. PERUVIAN AUTHORITIES REQUIRE FOREIGN FLAG BOATS WHICH DO NOT TURN IN THEIR CATCH TO PERU TO OBTAIN THE FOLLOWING DOCUMENTATION:

A. OPERATIONS PERMIT: S/18,000 ANNUALLY
B. REGISTRATION (MATRICULA): \$500 PER CALENDAR YEAR
C. TAX ON VESSEL TONNAGE: \$20 PER NET REGISTERED TON EVERY 100 DAYS

4. IN ADDITION TO FOREGOING, DECREE LAW 20000 OF MAY 7, 1973, ABOLISHED ALL PRIVATE OWNERSHIP (FOREIGN AND LOCAL) OF FISHMEAL AND FISH OIL COMPANIES (LIMA A-135 OF MAY 30, 1973). THE SHARES OF SUCH COMPANIES WERE TAKEN OVER BY THE GOP AT THAT TIME AND THE DECREE LAW SPELLED OUT THE METHOD OF PAYMENT FOR THE SHAREHOLDERS. "PESCAPERU," A STATE ENTITY FOR THE EXTRACTION AND TRANSFORMATION LIMITED OFFICIAL USE

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OF FISHMEAL AND FISH OIL, WAS ALSO CREATED. THERE ARE, THEREFORE, NO FOREIGN INVESTMENTS IN THE FISHMEAL OR FISH OIL INDUSTRY.
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